

Jesse Merrithew, OSB No. 074564

Email: jesse@lmhlegal.com

Viktoria Safarian, OSB No. 175487

Email: viktoria@lmhlegal.com

Levi Merrithew Horst PC

610 SW Alder Street, Suite 415

Portland, Oregon 97205

Telephone: (971) 229-1241

Juan C. Chavez, OSB No. 136428

Email: jchavez@ojrc.info

Brittney Plessner, OSB No. 154030

Email: bplessner@ojrc.info

Alex Meggitt, OSB No. 174131

Email: ameggitt@ojrc.info

Franz H. Bruggemeier, OSB No. 163533

Email: Fbruggemeier@ojrc.info

Oregon Justice Resource Center

PO Box 5248

Portland, OR 97208

Telephone: 503 944-2270

J. Ashlee Albies, OSB No. 051846

Email: ashlee@albiesstark.com

Whitney B. Stark, OSB No. 090350

Email: whitney@albiesstark.com

Maya Rinta, OSB No. 195058

Email: maya@albiesstark.com

Albies & Stark LLC

1 SW Columbia St. Suite 1850

Portland, Oregon 97204

Telephone: (503) 308-4770

Facsimile: (503) 427-9292

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

DON'T SHOOT PORTLAND, et al.

Plaintiffs

v.

CITY OF PORTLAND, a municipal corporation,

Defendant.

Case No.

DECLARATION IN SUPPORT OF PETITION
FOR TEMPORARY RESTRAINING ORDER

I, Kevin Wilbanks, declare as follows pursuant to 28 USC § 1746:

1. I have personal knowledge of the information contained in this declaration. If called upon to do so, I could and would competently testify regarding the matters set forth herein.
2. I have been living in the greater Portland area for the last five years.
3. On Sunday, May 31, 2020 around 6:30 I went with my friends to a protest starting near Laurelhurst Park. I went to the protest not to riot or loot or incite any violence. I went in solidarity with my BIPOC friends and community members, to be allies and accomplices, and to help amplify their voices and have them finally heard. We also went to provide tear gas and other medical support in case the police decided to start firing tear gas and other weapons at the crowd like they did the day prior.
4. I marched with the group around the area, before eventually making our way towards the Justice Center. We didn't want any violence, and for hours I didn't see any.
5. I arrived at the Justice Center around 9:30pm, after the mandated curfew was in place. At first, it really seemed like the officers were willing to listen. It took a while, but they finally acknowledged us and agreed to have a conversation between some of the de facto protest leaders and the Chief of Police. Some of the police even took a knee in apparent solidarity.
6. Around 10:45pm, some of the de facto protest leaders and officers went inside to talk. With no warning or explanation, the officers outside yelled at us and told us over the loudspeaker to move away from the area, even though we had just previously been told to sit and wait for the conversation to conclude.
7. I complied and moved, but tensions started rising as the threats continued to come from the officers. They eventually explained what the cause of the orders were (the orders were supposedly given because there was a rumor that someone was trying to break into the courthouse) and said we could move back to the street.

8. My friends and I, and the vast majority of the other protesters in the area near me remained peaceful. I saw a few agitators from the protestor side tagging and throwing fireworks. Again, the crowd didn't want that, and it only happened after the officers flexed their power and threatened us with violence.

9. Around 11:30pm, officers started indiscriminately firing tear gas, flash bangs, and rubber bullets on the entire crowd. The pain was substantial; for my eyes, it was at least a 7 out of 10 on the pain scale. Some of my friends who breathed in more of the tear gas than me told me that their throats and lungs were a 7-9 on the pain scale. It caused extreme disorientation; my eyes effectively sealed themselves shut for a time while I was unable to really breathe. We had supplies (milk, milk of magnesia) on hand to flush our eyes quickly, but they were still very sensitive and raw for most of the night. They chased us into several smaller groups while yelling over their loudspeaker for us to leave downtown.

10. My friends and I came to the protest partly to support others, so we paid a lot of attention to others being affected by the gas. Most people looked to be experiencing it as intensely as my friends and I were, in terms of pain levels and side effects.

11. We came across one couple whose eyes were completely red, as they were not informed or prepared for the effects and were right in the middle of a cloud. The gentleman in the couple could barely speak or open his eyes, even after we tried flushing them out.

12. Further, we met up with a visitor to town who had unintentionally gotten caught up in the violence. He told us that he was hit with the gas and was curled up in a corner in a parking garage for 10 minutes waiting for the pain and confusion to subside.

13. As we tried to navigate our way through downtown to the bridges to cross over into SE Portland, we ran into SWAT teams with more gas and more bullets at every corner. At one point, I saw what looked like police vehicles driving through a crowd of people while appearing to shoot

pepper spray out their windows.

14. I did not fight back. I tried to remain calm and move in the general directions the officers were pushing us. But they pushed us in circles. The police continued to hit us with tear gas and flash bangs. The gas continued the harm to my eyes, lungs, and throat and my friends were complaining of pain. Some of us were coughing and wheezing most of the night after getting caught in the tear gas a few times, and one friend nearly threw up.

15. Then, as we were walking down a street towards the Waterfront, officers pulled up behind us and fired at our group up with rubber bullets, tear gas, and a flash bang. I was hit four times by the bullets—once on each leg, once on my hip, and one on my rear. My friends were also hit, both by bullets and tear gas canisters. The officers fired at us as we were calmly walking away, trying to comply with their orders. Not only that, but they waited until they were right next to us to do so—they appeared to be no more than 10-15 feet between us and them as they fired.

16. The cat-and-mouse game continued for a while as we tried to navigate through downtown streets and make it back to a bridge. The police kept firing, though we were fortunately not hit again. We eventually made it to a bridge, called for a rescue pick-up around 12:30am, and went home.

17. Some of my friends were still feeling pain the tear gas in their throats and lungs the next day.

18. My friends and I were terrified by what happened that night. Several of us are experiencing trauma symptoms. We have been talking about our fears of exposure to illnesses and hope to specifically get tested for COVID-19. Some of my friends have worked up the courage to go back out protesting.

/ / /

/ / /

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on June 5, 2020.

DocuSigned by:

Kevin D. Wilbanks

KEVIN WILBANKS

507A9227BED942C